HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO.1974 of 2007

Dated:14-12-2007

Between:

Domala Kotaiah
And another

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AND

The District Collector-cum-
Land Acquisition Officer,
Kakinada, East Godavari district.

And another.

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Counsel for the petitioners : Smt.I.Mamu Vani

Counsel for Respondents : A.G.P.for Land Acquisition

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.1974 of 2007

O R D E R:

This writ petition is filed for a writ of mandamus to direct the respondents to drop proposals to acquire petitioners' land in survey No.110/2 & 110/4 to an extent of Ac.3.68 cents situated at Velanka villange, Kirilampudi Mandal, East Godavari district by invalidating order dated 26.12.2006 passed by respondent No.1.

Heard I.Mamu Vani, learned counsel for the petitioners and the learned Assistant Government Pleader for Land Acquisition for respondents.

This is the second round of litigation in which the petitioners have been valiantly fighting to retain the land which is proposed to be acquired by the respondents for the purpose of providing house-sites to weaker sections. At the hearing, learned counsel for the petitioners had drawn my attention to order dated 26.12.2006 and pointed out that the District Collector – respondent No.1 signed the said order on 26.12.2006 while two initials were found with 22.12.2006 as the date which shows that those initials were made at least four days before respondent No.1 had signed the order.

Though a specific contention is raised in this regard in the writ petition, the counter affidavit is silent on this aspect and there is no explanation given therein as to how even before the District Collector signed on the order, two initials were found on 22.12.2006.

The learned counsel submitted and in my view rightly so, respondent No.1 evidently mechanically signed the said order prepared by his subordinates on 22.12.2006.

Section 5A of the Act is envisaged with the avowed object of giving a valuable opportunity to the owners of the land to put forth their objections to the proposed acquisition. Therefore, it is the bounden duty of the competent authority, who in this case is the District Collector, to consider their objections in an objective manner and dispose them of before embarking upon further steps towards the acquisition of the land. In this case, from the above-mentioned facts, I am convinced that respondent No.1 failed to apply his mind

independently and objectively in considering the objections of the petitioners. That there was no such consideration is also pointed out by the learned counsel from the fact that while Form-III notice described 52 cents situated at Survey No.110/4 as dry land, the same is shown as wet land in order dated 26.12.2006.

For the aforementioned reasons, order dated 26.12.2006 is set aside. Declaration dated 23.1.2007 issued under Section 6 of the Act issued in pursuance of the said order is also set aside. Respondent No.1 is given liberty pass a fresh order.

The writ petition is accordingly disposed of.

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C.V.NAGARJUNA REDDY,J

Date:14.12.2007
mdaa